

Attorney Docket No. 2003B005/2

**REMARKS/ARGUMENTS****RECEIVED  
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Reconsideration of the claims in view of these amendments and remarks is respectfully requested. The claims presented for reconsideration are claims 29-51. Claims 29 and 32-49 have been amended. Claims 50 and 51 are new. No new matter has been added.

**AMENDMENTS TO THE DETAILED DESCRIPTION**

The following amendments to the detailed description were made in this response:

Paragraphs [0004] and [00139] were amended to replace "PP" with "polypropylene." "PP" is known in the art to mean "polypropylene," thus, no new matter has been added. *See* M.P.E.P. § 2163.07(I) ("The mere inclusion of dictionary or art recognized definitions [is not] considered new matter.").

Paragraphs [0007], [0008], [0009], [0044], [0045], [0064], [0065], [0070] and [0076] were amended to include 2-methyl-1,5-hexadiene as a potential diene component of the polymer composition. The diene 2-methyl-1,5-hexadiene was previously disclosed in the detailed description, however, it was mistakenly labeled as an  $\alpha$ , internal non-conjugated diene. One of ordinary skill in the art would recognize that this was an error, and that 2-methyl-1,5-hexadiene is not an  $\alpha$ , internal non-conjugated diene. One of ordinary skill in the art would also recognize that the appropriate correction would be that the diene in the polymer composition could be either 2-methyl-1,5-hexadiene or an  $\alpha$ , internal non-conjugated diene. As one of ordinary skill in the art would not only recognize the error in the specification but would also recognize the appropriate correction, the amendments to these paragraphs are not new matter. *See* M.P.E.P. §2163.07(II) *citing In re Oda*, 443 F.2d 1200 (CCPA 1971) ("An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of error in the specification, but also the appropriate correction.").

Paragraphs [0009] and [0064] were amended to replace 0.0 wt% to 20 wt% ethylene units with 0.0 wt% to 2.0 wt% ethylene units. This amendment is to correct a typographical error. Additionally, 2.0 wt% is contained within the previously disclosed range, thus no new matter has been added.

Paragraphs [0018], [0019], and [0021] were amended to replace "polymer" with "monomer." These amendments were made to clarify that the definitions in these paragraphs were referring to the monomeric units of the polymer composition and not the polymer composition as a whole. One of ordinary skill in the art would recognize that the use of "polymer" in these definitions was an error, and that "monomer" was the appropriate correction. Thus, no new matter has been added. *See* M.P.E.P. §2163.07(II) *citing In re Oda*, 443 F.2d 1200 (CCPA 1971).

Paragraphs [0049], [0066] and [0072] were amended to remove 2-methyl-1,5-hexadiene from the list of potential  $\alpha$ , internal non-conjugated diene monomers. One of ordinary skill in the art would recognize that 2-methyl-1,5-hexadiene is not an  $\alpha$ , internal non-conjugated diene monomer and that its placement in this list was a mistake. One of ordinary skill in the art would also recognize that the appropriate correction would be that the diene monomer could be either 2-methyl-1,5-hexadiene or an  $\alpha$ , internal non-conjugated diene. As one of ordinary skill in the art would not only recognize the error in the specification but would also recognize the appropriate correction, the amendments to these paragraphs are not new matter. *See* M.P.E.P. §2163.07(II) *citing In re Oda*, 443 F.2d 1200 (CCPA 1971).

Paragraph [00136] was amended to clarify that "HPPE" was an acronym for "high pressure polyethylene." "HPPE" is known in the art to mean "high pressure polyethylene," thus, no new matter has been added. *See* M.P.E.P. § 2163.07(I).

Paragraph [00153] was amended to clarify that "LPS" was an acronym for "low pressure separator." The meaning of LPS was clear from the heading, "Low Pressure Separator Operation," immediately preceding the paragraph, thus, no new matter has been added.

Paragraphs [0009], [0017], [0018], [0021], [0044], [0063], [0064], [0067], [0072], [0076], [00135], [00144], [00166], and [00168] were also amended to correct various typographical errors. No new matter was added.

The Abstract was amended to include 2-methyl-1,5-hexadiene as a potential diene component of the polymer composition. The diene 2-methyl-1,5-hexadiene was previously

disclosed in the detailed description, however, it was mistakenly labeled as an  $\alpha$ , internal non-conjugated diene. One of ordinary skill in the art would recognize that this was an error, and that 2-methyl-1,5-hexadiene is not an  $\alpha$ , internal non-conjugated diene. One of ordinary skill in the art would also recognize that the appropriate correction would be that the diene in the polymer composition could be either 2-methyl-1,5-hexadiene or an  $\alpha$ , internal non-conjugated diene. As one of ordinary skill in the art would not only recognize the error in the specification but would also recognize the appropriate correction, the amendments to these paragraphs are not new matter. *See* M.P.E.P. §2163.07(II) *citing In re Oda*, 443 F.2d 1200 (CCPA 1971).

#### AMENDMENTS TO THE CLAIMS

The following amendments to the claims were made in this response:

Independent claim 29 was amended to clarify that the diene unit in the copolymer composition could be either 2-methyl-1,5-hexadiene or an  $\alpha$ , internal non-conjugated diene. Support for this change is present, *inter alia*, on pages 2, 3, 11, 20, 21, and 22 of the Application as filed.

Claim 29 was also amended to correct a typographical error. It was amended so that the ethylene units claimed are from 0.0 wt% to 2.0 wt% and not from 0.0 wt% to 20.0 wt%. Support for this change is present, *inter alia*, on pages 2, 3, 11, 20, and 116 of the Application as filed.

Dependent claim 32 was amended to remove 2-methyl-1,5-hexadiene from the list of potential  $\alpha$ , internal non-conjugated diene monomers.

Dependent claims 33-49 were amended to clarify that the copolymer claimed was the "polypropylene" copolymer of independent claim 29 as originally filed and not a "propylene" copolymer. Additionally, claims 44-49 were amended to indicate the units for the melt flow rate limitation. Support for this amendment is present, *inter alia*, in paragraph [0037] and Table 2 of the Application as filed.

Dependent claims 50 and 51 were added. These claims were added to clarify that 2-methyl-1,5-hexadiene could be present in the copolymer compositions in the amounts of from

0.0005 mol % to 10 mol % and 0.005 mol % to 10 mol %, respectively. Support for these claims is present, *inter alia*, on page 20 of the Application as filed.

#### **DECLARATION UNDER 37 C.F.R. § 1.131**

Applicant submits a declaration under 37 C.F.R. § 1.131 with this Response. The attached Declaration, signed by the sole inventor, antedates Applicant's invention prior to May 3, 2002. Therefore, Lehmus is not prior art and cannot be the basis of a 35 U.S.C. § 103(a) rejection.

The effective date of U.S. Patent Application No. 10/476,646 to Lehmus et al. (hereinafter "Lehmus") is May 3, 2002, the date of its PCT filing. See M.P.E.P. § 715(III) citing *In re Hilmer*, 359 F.2d 859 (CCPA 1966) (The effective date of a domestic patent when used as a reference is not the foreign filing date to which the application for patent may have been entitled under 35 U.S.C. 119(a) during examination, but rather the effective filing date is determined under 35 U.S.C. § 102(e).).

Applicant can claim priority to a nonprovisional application, U.S. Provisional Application No. 60/442,718, filed on January 27, 2003. Applicant's application can be afforded the priority date of the provisional application because the specification of the provisional application contains a written description of the invention and the manner of making and using the invention in such full, clear, concise, and exact terms, as to enable one of ordinary skill in the art to practice the invention claimed in the application. As this priority date is within one year of Lehmus' effective filing date, the Applicant's 37 C.F.R. § 1.131 declaration removes Lehmus as prior art with respect to Applicant's application.

#### **CONCLUSION**

Applicant requests early and favorable reconsideration in the form of a Notice for Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, as this should expedite the prosecution of the application for all concerned.

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If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2003B005/2).

Respectfully submitted,



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